

1 L. ALDANA-BERNIER

2 MR. CALLAN: Didn't she just say  
3 she didn't speak to Dr. Lamstein?  
4 Objection.

5 Q. Did you ever tell Dr. Lamstein  
6 that Mr. Schoolcraft did not need  
7 psychiatric care?

8 MR. CALLAN: Are you asking if  
9 she used telepathy since she didn't  
10 speak to the doctor?

11 Q. Did you say that to --

12 A. I haven't spoken to Dr.  
13 Lamstein.

14 Q. So if Dr. Lamstein said that  
15 you told her that Mr. Schoolcraft did not  
16 need psychiatric care, she would not be  
17 telling the truth; is that what you're  
18 saying?

19 MR. CALLAN: Objection to the  
20 form of the question.

21 A. You are asking me if Dr.  
22 Lamstein tells me that he doesn't need  
23 admission, am I going to change my mind?

24 Q. No. If Dr. Lamstein testified  
25 that you told Dr. Lamstein that Mr.

1 L. ALDANA-BERNIER

2 Schoolcraft did not need psychiatric  
3 admission, would she be lying?

4 MR. CALLAN: Objection to the  
5 form of the question.

6 A. This is the first time I'm  
7 hearing about Dr. Lamstein.

8 Q. Did you ever hear the name Dr.  
9 Lamstein before?

10 A. No, the first time I'm hearing  
11 about Lamstein.

12 Q. Did you ever speak to anybody  
13 from the internal affairs bureau of the  
14 police department?

15 A. Excuse me?

16 Q. Did you ever speak to anybody  
17 from the internal affairs bureau of the  
18 police department?

19 A. No.

20 Q. Were you the admitting  
21 physician for Mr. Schoolcraft to the  
22 psych emergency room?

23 A. In the emergency room, yes.

24 Q. Do you know the name of the  
25 person that brought Mr. Schoolcraft in?

1 L. ALDANA-BERNIER

2 A. No, I don't.

3 Q. Did you prescribe any  
4 medication for Mr. Schoolcraft?

5 A. Risperdal, 0.5 milligrams.  
6 That was written by the resident, but I  
7 agreed; Risperdal 0.5 milligrams twice a  
8 day.

9 Q. What is that?

10 A. That's an antipsychotic.

11 Q. Antipsychotic?

12 A. Paranoia, psychosis.

13 Q. What was the dosage?

14 A. It's 0.5.

15 Q. What was his weight?

16 A. Weight, 109 kilograms.

17 Q. And the dosage that you  
18 prescribed, is that an introductory dose?

19 MR. LEE: Objection to form.

20 A. Yes.

21 Q. So it's not really therapeutic  
22 at that level, correct?

23 A. It's twice a day. It should be  
24 therapeutic.

25 Q. When you say "it should be

1 L. ALDANA-BERNIER

2 therapeutic," what do you mean?

3 A. If you are getting 0.5  
4 milligrams twice a day, 1 milligram, yes.

5 Q. How long does it take before it  
6 becomes effective to become therapeutic?

7 MR. CALLAN: Objection.

8 Q. At the dosage that you  
9 prescribed at the weight that Mr.  
10 Schoolcraft was?

11 MR. CALLAN: Objection.

12 A. Most likely a week.

13 Q. And when people come in and are  
14 dangerous, have you prescribed medication  
15 that they have rejected and refused to  
16 take? Has that ever happened to you  
17 where a patient refuses to take medicine  
18 and you have decided the patient is a  
19 danger to themselves or others?

20 A. Before we start any medication,  
21 you describe it with the patient which  
22 you need informed consent and you talk  
23 about the side effects, the consequences,  
24 and the benefits of taking or not taking  
25 medication.

1 L. ALDANA-BERNIER

2 Q. Have you ever medicated a  
3 patient against their will because they  
4 were a danger to themselves or others?

5 A. They are a danger to  
6 themselves, if they are agitated, they  
7 are violent, yes, I medicated someone  
8 against their will.

9 Q. How did you do that?

10 A. If they are becoming -- if the  
11 emergency room is being chaotic and the  
12 patient -- first you speak with the  
13 patient and you try to redirect the  
14 patient, try to calm him down. If he  
15 doesn't agree or if he doesn't listen to  
16 your redirection, then you start telling  
17 him that you are going to medicate him.

18 Q. And physically, how do you do  
19 that, how do you medicate the person who  
20 resists taking the medicine?

21 A. We give them intramuscular.

22 Q. Someone will restrain them and  
23 give them a shot, correct?

24 A. Yes.

25 Q. You did not have the opinion

1 L. ALDANA-BERNIER

2 that Mr. Schoolcraft needed to go through  
3 the process of being medicated against  
4 his will, correct?

5 A. At the time in the ER, at that  
6 point in time when he was in the ER, he  
7 was not given any intramuscular  
8 injection.

9 Q. Mr. Schoolcraft refused to take  
10 the medication that you prescribed,  
11 correct?

12 A. Yes.

13 Q. And you did not go through this  
14 process where you went through having him  
15 restrained and giving him the shot, you  
16 didn't go through that process with him,  
17 correct?

18 A. No, I didn't.

19 Q. Because you didn't deem it  
20 necessary to do that to Mr. Schoolcraft,  
21 correct?

22 A. At the point he was in the ER,  
23 he was not agitated so I did not have to  
24 give him an injection.

25 Q. He wasn't such a threat to

1 L. ALDANA-BERNIER

2 anybody that he was going to need that  
3 type of restraint and then injection,  
4 correct?

5 A. He was not agitated at the time  
6 so I didn't have to inject him.

7 Q. You indicated that you wanted a  
8 second opinion earlier, correct?

9 A. Yes.

10 Q. Did you write a request for a  
11 second opinion or a consult?

12 A. No, I just have to call my  
13 associate chairman and present to him the  
14 case, and I spoke with him and he agreed  
15 with me.

16 Q. Who is the doctor that you  
17 called?

18 A. Associate chairman.

19 Q. Who is the associate chairman  
20 that you spoke with?

21 A. Dr. Dhar, D-H-A-R.

22 Q. Dr. Dhar is a psychiatrist?

23 A. Yes.

24 Q. Dr. Dhar is his associate  
25 chairman. What is that?

1 L. ALDANA-BERNIER

2 A. Next to the chairman.

3 Q. Who is the chairman?

4 A. Dr. Vivek.

5 Q. Can you spell that?

6 A. V-I-V-E-K.

7 Q. When you say you spoke to him,  
8 did you speak to him on the phone or you  
9 don't recall?

10 A. Call him downstairs and I  
11 presented the case to him.

12 Q. When you say "you presented the  
13 case to him," did you tell him about the  
14 history that you took?

15 A. Yes.

16 Q. Do you remember actually having  
17 this conversation, or is that your  
18 standard practice that you described?

19 A. When it's a decision, like,  
20 when a decision has to be made wherein --  
21 I would say it's standard practice.

22 Q. You don't recall actually  
23 having the conversation?

24 A. I recall that I spoke to him.

25 Q. You recall in this case



1 L. ALDANA-BERNIER

2 speaking to him?

3 A. Speaking to him.

4 Q. What time of day did you speak  
5 to him?

6 A. That was the afternoon.

7 Q. And is the associate chairman  
8 the person that you generally call to get  
9 a second opinion for admission under the  
10 Mental Hygiene Law?

11 A. Yes.

12 Q. Why do you recall this  
13 particular incident with regard to Mr.  
14 Schoolcraft when you got the second  
15 opinion: Is there anything that brings  
16 it to your mind?

17 A. I recall that because every  
18 police officer that comes to our  
19 hospital, I try to get second opinion.

20 Q. When you say "every police  
21 officer," how often have you had police  
22 officers brought to your hospital to the  
23 emergency psych ward?

24 A. I could not recall how many.

25 Q. Hundreds?

1 L. ALDANA-BERNIER

2 A. No.

3 Q. Dozens?

4 A. No. That's why it came back in  
5 memory because it's not 100, but I cannot  
6 recall how many.

7 Q. More than ten?

8 A. I don't remember.

9 Q. Less than 50?

10 A. I would not remember.

11 Q. On each of these occasions,  
12 were they brought in by other members of  
13 the New York City Police Department?

14 A. Yes.

15 MR. RADOMISLI: What?

16 THE WITNESS: Yes.

17 Q. On each of those occasions, did  
18 you admit those patients to the psych ER?

19 A. To the psych ER, yes.

20 Q. On each of those occasions, did  
21 the associate chairman agree with your  
22 opinion to admit these police officers  
23 under the --

24 MR. CALLAN: Objection to the  
25 question. I don't know that she said

1 L. ALDANA-BERNIER

2 she consulted with the associate  
3 chairman on every case.

4 MR. SUCKLE: I will clarify.

5 Q. For each of those police  
6 officers that were admitted under the  
7 Mental Hygiene Law, did you consult with  
8 a second opinion?

9 A. Yes.

10 Q. In each of those police  
11 officers, did the person, the doctor you  
12 consulted with, agree with your opinion  
13 to admit under the Mental Hygiene Law?

14 A. Yes.

15 Q. And these times when police  
16 officers were admitted under the Mental  
17 Hygiene Law, did some of them occur  
18 before Mr. Schoolcraft's admission? I  
19 mean in the year or months beforehand.

20 A. Yes.

21 Q. And did the police officers  
22 come from any particular precinct that  
23 you were talking about: Did they come  
24 from the 81st Precinct, if you know?

25 A. I would not know that.

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2 Q. Do you know, did you get to see  
3 any of the police officers on a recurring  
4 basis that would bring these police  
5 officer in; in other words, the police  
6 officers that would bring the other  
7 police officer in for evaluation, did you  
8 see those police officers more than once?

9 MR. RADOMISLI: Objection to  
10 form.

11 A. What do you mean more than  
12 once?

13 Q. Like in this case we know that  
14 Sergeant James played some role in Mr.  
15 Schoolcraft's history, correct?

16 MR. SHAFFER: Objection.

17 A. That's in the record.

18 Q. Do you know if Sergeant James  
19 was involved in any of the other police  
20 officers who were admitted to Jamaica  
21 Hospital who you admitted under the  
22 Mental Hygiene Law?

23 A. I don't know how Mr. James look  
24 like.

25 Q. Were there any police officers,

1 L. ALDANA-BERNIER

2 sergeants, lieutenants who you can  
3 identify who would bring police officers  
4 to Jamaica Hospital on a recurring basis?

5 MR. RADOMISLI: Objection to  
6 form.

7 MR. SHAFFER: Objection.

8 Q. That you know either by sight  
9 or name?

10 A. No, I wouldn't.

11 Q. When the police officers are  
12 brought in by the other members of the  
13 New York City Police Department, do you  
14 always have the same concerns that you  
15 describe for us about the police officer  
16 having access to weapons?

17 MR. CALLAN: Objection to the  
18 form of the question.

19 She didn't say they were brought  
20 in by other members of the New York  
21 City Police Department.

22 MR. SUCKLE: We've been told  
23 that she did.

24 Q. Does that concern that you  
25 expressed about Mr. Schoolcraft and the

1 L. ALDANA-BERNIER

2 access to weapons, did it apply to those  
3 other police officers that you admitted  
4 under the Mental Hygiene Law?

5 A. I think you have to look at the  
6 case. It depends. Every case is  
7 different. You have to look at it  
8 differently.

9 Q. So some police officers have  
10 access to weapons and some don't?

11 A. That I wouldn't know.

12 Q. You indicated one of your  
13 concerns for Mr. Schoolcraft's safety was  
14 that he had access to weapons.

15 A. In the notes he mentioned why  
16 he cannot have access to his guns.

17 Q. So were other police officers  
18 brought in who did have access to weapons  
19 that you are aware of?

20 A. I do not remember that.

21 Q. Did other police officers ever  
22 bring in another police officer to the  
23 emergency room who you did not admit  
24 under the Mental Hygiene Law?

25 A. That would be hard to remember.

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2 Q. As you sit here today, you  
3 don't recall any such situations; am I  
4 correct?

5 MR. RADOMISLI: Objection.

6 MR. CALLAN: Objection to form.  
7 What situation: admitting or not?

8 MR. SUCKLE: Not admitting.

9 Q. As you sit here today, do you  
10 recall any occurrence of a police officer  
11 being brought in by other police officers  
12 and you did not admit them under mental  
13 hygiene?

14 MR. RADOMISLI: Objection.

15 A. It would be hard to remember.

16 Q. So the answer is: As you sit  
17 here, no, you don't remember?

18 MR. RADOMISLI: Objection to  
19 form.

20 A. I do not remember.

21 Q. When is the last time you  
22 admitted a police officer under the  
23 Mental Hygiene Law into the psych  
24 emergency room?

25 A. Do not remember.

1 L. ALDANA-BERNIER

2 Q. Was Mr. Schoolcraft the last  
3 police officer that you admitted under  
4 the Mental Hygiene Law?

5 A. I do not know if he was the  
6 last one.

7 MR. RADOMISLI: Read that back.  
8 [The requested portion of the  
9 record was read.]

10 Q. But none come to memory since  
11 Mr. Schoolcraft, correct?

12 A. I'm not sure. I don't  
13 remember.

14 Q. And going to your November 3rd  
15 note where you fill out the mental status  
16 exam form, can we turn to that, please.

17 [Witness complying.]

18 Q. Look first at --

19 A. Yes.

20 Q. -- that's stamped at the top  
21 "Emergency Admission Section 9.39 Mental  
22 Hygiene Law." At the bottom is your  
23 signature?

24 A. Yes.

25 Q. Is that what we are all talking



1 L. ALDANA-BERNIER

2 about, is that what you have in front of  
3 you?

4 A. Yes.

5 Q. Is this all of your  
6 handwriting?

7 A. Yes.

8 Q. And going to the part that  
9 says, "record of admission," what did you  
10 write there?

11 A. "Patient is a danger to  
12 himself. Currently psychotic and  
13 paranoid. Would benefit from inpatient  
14 stabilization."

15 Q. I'm sorry. I didn't get all of  
16 that?

17 A. Would benefit from inpatient  
18 stabilization.

19 Q. I didn't hear before will  
20 benefit.

21 [The requested portion of the  
22 record was read.]

23 Q. When you say he would benefit  
24 from it, what do you mean?

25 A. Benefit from inpatient

1 L. ALDANA-BERNIER

2 stabilization because when you go up to  
3 the inpatient unit, you will have a  
4 psychiatrist, a therapist, and a team  
5 that will work with you. There are  
6 groups in the inpatient unit and there  
7 are other modalities of the kind of  
8 treatment in the inpatient unit that will  
9 be able to maybe find out why he was  
10 behaving the way he was behaving or why  
11 he was paranoid, and he will be able to  
12 talk to a psychologist or the other  
13 therapist.

14 Q. The stabilization, was that a  
15 stabilization of his affect, his  
16 environment that was going to be  
17 stabilized, what did you mean by that?

18 MR. CALLAN: Objection to form.

19 A. Stabilization means  
20 stabilization of his psychosis and  
21 stabilization of if there was any  
22 emotional crisis that was he going on  
23 [sic] or going through with the conflict  
24 that he was having with the supervisors.

25 Q. So some type of resolution of

1 L. ALDANA-BERNIER

2 that conflict would be part of the  
3 stabilization?

4 A. Yes.

5 Q. And that would have occurred  
6 through the modalities that you just  
7 described earlier?

8 A. Yes.

9 Q. And would the stabilization  
10 also include limiting his access to  
11 weapons?

12 A. Stabilization, that will  
13 include, yes, because they will have to  
14 find out before he is discharged to  
15 ascertain he doesn't have any access to  
16 weapons or....

17 Q. Is that stabilization something  
18 that every police officer admitted under  
19 the Mental Hygiene Law needs to go  
20 through: making sure they don't have  
21 access to weapons?

22 MR. RADOMISLI: Objection.

23 MR. CALLAN: I join in the  
24 objection.

25 A. It's not only police officers

1 L. ALDANA-BERNIER

2 but everyone that comes in who are a  
3 danger that we know they have access to  
4 weapons, then we try as much as possible.

5 I don't know if you know about  
6 the New York SAFE Act wherein we have to  
7 report everyone that has a weapon, we  
8 have to make sure that they are  
9 discharged before....

10 Q. Usually you have to report  
11 everyone that has a weapon, who do you  
12 have to report that to?

13 A. The Department of Health.

14 Q. That's been the law for how  
15 long?

16 A. Maybe -- that's new, a new law.

17 Q. Was that in effect in 2009?

18 A. Not 2009. What I was trying to  
19 say that anyone we know that is a danger  
20 to themselves, we try to make sure they  
21 don't have any access to weapons.

22 Q. Looking at the date that you  
23 wrote in there -- we have gone through  
24 this. I don't want to spend too much  
25 time on it; but did you actually cross

1 L. ALDANA-BERNIER

2 out the date of the admission and then  
3 rewrite it?

4 A. I tried to put 11/1/2009.

5 Q. Did you check a.m. or p.m. on  
6 this?

7 A. No, I did not check it, but  
8 23:03 is --

9 Q. Military time?

10 A. -- military time, yes.

11 Q. From the time of your note on  
12 the 2nd at 3:10 until this note on the  
13 3rd at 1:20, was Mr. Schoolcraft free to  
14 leave?

15 A. No, he was not.

16 I made my decision on the day  
17 that I saw him.

18 Q. You made your decision on that  
19 date and then turn to the Notice of  
20 Status of Rights in Emergency Admission  
21 which your counsel clearly decided to  
22 throw in front of you before --

23 MR. CALLAN: Are we allowed to  
24 look at it now because it's in the  
25 record, Counsel?

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2 Q. Did you sign that form?

3 A. Yes.

4 Q. On the 3rd, correct?

5 A. On the 3rd, yes.

6 Q. Did you sign that at the same  
7 time that you signed the Emergency  
8 Admission Section 9.39 Mental Hygiene  
9 Law, that form?

10 A. Yes.

11 Q. What did you do with this form  
12 once you signed it?

13 A. One copy goes to the patient.

14 Q. So Mr. Schoolcraft was given  
15 this on the 3rd of November, 2009?

16 A. Yes.

17 Q. Did he sign it?

18 A. No. I am the one that signs  
19 it.

20 Q. Did Mr. Schoolcraft ask you to  
21 -- did you have any contact with Mr.  
22 Schoolcraft's father?

23 A. No, I did not.

24 Q. Did Mr. Schoolcraft say, call  
25 my father and tell him about this?

1 L. ALDANA-BERNIER

2 A. No, he did not. I don't know.  
3 I don't have any notes about him allowing  
4 me to speak to his father.

5 Q. Do you know if you spoke to his  
6 father while he was in the hospital?

7 A. Regarding the notes if I spoke  
8 to the father?

9 Q. Did you write on here that his  
10 father should be designated as the person  
11 to be noticed of this admission?

12 A. No, I didn't write anything  
13 here.

14 Q. Why not?

15 A. Because this belongs to him.

16 Q. When you say --

17 A. This is the for the patient.

18 Q. This is for the patient?

19 A. Yes.

20 Q. Do you know why there are these  
21 lines indicating where copies should go?

22 A. It says, above patient has been  
23 given a copy of that notice.

24 Q. Underneath that, what does it  
25 say, it has your signature and underneath

1 L. ALDANA-BERNIER

2 that, what does it say? Can you read  
3 that into the record, please?

4 A. "Copies to persons designed by  
5 patient to be informed of admission."

6 Q. Continue. "If," there is a  
7 parenthesis there.

8 A. "If none type in none."

9 Q. Did you type in none?

10 A. No, I did not.

11 Q. Did you write in none?

12 A. No, I did not.

13 Q. Did you write in anybody's  
14 name?

15 A. It's there, "Schoolcraft,  
16 Adrian."

17 Q. Did you write anybody's name to  
18 be designated by the patient to be  
19 informed of his admission, did you write  
20 any names there?

21 A. No, I didn't write any names.

22 Q. Do you have a recollection as  
23 you sit here today independent of the  
24 record, do you recall actually giving  
25 this to Mr. Schoolcraft?



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2 A. I do not have an independent  
3 recollection. The nurse could have given  
4 it to him.

5 Q. So the nurse may have given it  
6 to him?

7 A. Yes.

8 Q. Is this something that you  
9 assigned the nurses to do from time to  
10 time?

11 A. Either the nurse or I do. I do  
12 not have a recollection if I gave it to  
13 him. I will not know.

14 Q. Who is the person who write  
15 none on it for people to designated if  
16 none is the appropriate answer: you, the  
17 nurse, something else?

18 A. I would.

19 Q. The second page of that  
20 emergency admission form -- hold on one  
21 second. Go back to that notice for the  
22 second.

23 At the top of the notice there  
24 appears to be a date. Can you tell me  
25 the date that you wrote there?

1 L. ALDANA-BERNIER

2 A. 11/1/09.

3 Q. What does the form say in that  
4 box, what is the date of --

5 A. "Date of arrival at hospital."

6 Q. Did you first write 11/3 and  
7 then cross it out and make it 1?

8 A. No, that's 11/1.

9 Q. Did you cross out that middle  
10 number at all, the date?

11 A. No, I put 1.

12 Q. So there is no cross out or  
13 block out of that 1 where the 1 is now?

14 A. I put a 1 in there.

15 Q. Again, you put the 1 there  
16 because that's the date that you  
17 understand him to arrive at the psych ER,  
18 right?

19 A. Yes.

20 Q. As opposed to generally him  
21 arriving at the hospital, yes?

22 A. Yes.

23 Q. Is that something that you do  
24 when you fill out these forms when part  
25 of the form asked for date of arrival,

1 L. ALDANA-BERNIER

2 did you put in the date they arrived at  
3 the psych ER?

4 A. Yes.

5 Q. As opposed to the date they  
6 actually arrive at the hospital itself?

7 A. You're right.

8 Q. Why do you do that?

9 A. We usually put the date of the  
10 arrival when they come to the emergency  
11 room.

12 Q. I understand that.

13 Why don't you put the date of  
14 arrival at the hospital when that's what  
15 the form asked for?

16 A. We do not use this in the  
17 medical ER. We use this in the psych ER.

18 Q. Did you have any hand in  
19 creating this form as director?

20 A. No.

21 Q. This existed prior to you --

22 A. Yes.

23 Q. -- prior to you being director?

24 A. Yes.

25 Q. When did you stop being

1 L. ALDANA-BERNIER

2 director?

3 A. Yes.

4 Q. When did you stop?

5 A. October 2013.

6 Q. Was there a reason that you  
7 stopped being director?

8 A. There was a change of  
9 administration.

10 Q. Has there been changes of  
11 administration at any time in the ten  
12 years that you were director?

13 A. No.

14 Q. Looking at the second page of  
15 the emergency admission form, is any of  
16 this your handwriting?

17 A. That belong to Dr. Isakov.

18 Q. Did Dr. Vivek make any notes in  
19 the chart as to the associate chairman  
20 that you spoke to?

21 MR. CALLAN: Vivek is the  
22 chairman.

23 Q. I thought you said associate  
24 chairman.

25 A. Associate chairman is Dr. Dhar

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2 and chairman and Dr. Vivek.

3 Q. You spoke to Dr. Dhar?

4 A. Yes.

5 Q. Did Dr. Dhar fill out any of  
6 these forms with regard to the mental  
7 hygiene admission?

8 A. No.

9 Q. So you just got a verbal on the  
10 phone by Dr. Dhar; is that what you're  
11 saying?

12 MR. RADOMISLI: Objection.

13 Q. Of your opinion?

14 MR. CALLAN: Objection to the  
15 form of the question.

16 Q. Did you speak to Dr. Dhar on  
17 the telephone?

18 A. He came down.

19 Q. He came down to the emergency  
20 room?

21 A. [Indicating.]

22 Q. When Dr. Dhar came down to the  
23 emergency room, you presented the case to  
24 him, correct?

25 A. Yes.

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2 Q. And then what happened?

3 A. And he agreed to my decision of  
4 admitting the patient.

5 Q. Did he become the second  
6 physician under Mental Hygiene Law for  
7 admission?

8 A. You only the need one in an  
9 emergency admission.

10 Q. But it needs to be confirmed  
11 eventually, correct?

12 A. That is after 48 hours.

13 Q. So you called him down just  
14 because you wanted a second opinion, not  
15 to confirm for the purposes of 48-hour  
16 requirement, correct?

17 A. To discuss this case, yes.

18 Q. Was there something you were  
19 unsure of, is that why you wanted Dr.  
20 Dhar's opinion or something else?

21 MR. CALLAN: You went through  
22 this whole thing. Asked and answered,  
23 objection.

24 MR. SUCKLE: Then her answer  
25 should be the same.

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2 A. I give you the same answer.

3 Q. What is the same answer?

4 A. I made the decision and I asked  
5 for Dr. Dhar's opinion and Dr. Dhar  
6 agreed.

7 Q. Was there anything about Mr.  
8 Schoolcraft's presentation to you that  
9 made you unsure of your opinion?

10 MR. RADOMISLI: Objection to  
11 form; unsure.

12 A. Once more I have to reiterate:  
13 I was not only looking at that day when I  
14 saw him, I was looking at the whole  
15 picture; the whole picture from the time  
16 that he came in to the time that I made  
17 the decision that he needs to be  
18 admitted.

19 Q. Was there anything about that  
20 whole picture as you say and the opinion  
21 you formed as a result of that whole  
22 picture of which you were unsure; that is  
23 the question?

24 A. That I was not, no. I made a  
25 decision so I had to admit him.

1 L. ALDANA-BERNIER

2 Q. And the second form, did you  
3 review this at any time while Mr.  
4 Schoolcraft was in the hospital or were  
5 you done with Mr. Schoolcraft's care and  
6 treatment after that?

7 A. I did not review that. I do  
8 not go to the inpatient. I was not in  
9 the inpatient.

10 Q. So this form was completed in  
11 part by you in the emergency room, and  
12 the rest was completed for the inpatient  
13 by the second confirming physician?

14 A. Yes.

15 MR. SUCKLE: Mark this as  
16 Plaintiff's Exhibit 70.

17 [The document was hereby marked  
18 as Plaintiff's Exhibit 70 for  
19 identification, as of this date.]

20 Q. I show you what's been marked  
21 Exhibit 70 for today's date and ask you  
22 what that is?

23 MR. RADOMISLI: Do you have one  
24 at least?

25 MR. SUCKLE: You produced it.



1 L. ALDANA-BERNIER

2 MR. CALLAN: What you are  
3 showing is Emergency Admission Status.

4 Q. Do you know what that is?

5 MR. CALLAN: Do you have a copy  
6 machine?

7 MR. SMITH: I do.

8 MR. CALLAN: Before the end of  
9 day?

10 MR. SMITH: For sure.

11 MR. CALLAN: It's only three  
12 pages.

13 MR. SMITH: Everybody take a  
14 break. I'll make copies right now.

15 It's 4:34. We are taking a  
16 break.

17 [Discussion held off the  
18 record.]

19 [Whereupon, at 4:34 p.m., a  
20 recess was taken.]

21 [Whereupon, at 4:49 p.m., the  
22 testimony continued.]

23 [The documents were hereby  
24 marked as Plaintiff's Exhibits 71  
25 through 75 for identification, as of

1 L. ALDANA-BERNIER

2 this date.]

3 Q. Doctor, you have in front of  
4 you Exhibit 70 I believe.

5 A. Yeah.

6 Q. Do you know what that is?

7 A. Yes.

8 Q. What is it?

9 A. It's a policy on Emergency  
10 Admission Status.

11 Q. Did you have any hand in  
12 creating this document?

13 A. I do not remember. I just  
14 probably would see it, but I don't  
15 remember crafting it or making all of  
16 those policies.

17 Q. I realize it's long and I know  
18 you're tired, I appreciate that, but you  
19 have to keep your voice up if you can.

20 When you were the director of  
21 the emergency room, did you have a  
22 supervisor that you answered to?

23 A. Yes.

24 Q. Who was that?

25 A. Dr. Dhar and Dr. Vivek.

1 L. ALDANA-BERNIER

2 Q. So the chairman and the  
3 associate chairman?

4 A. Yes.

5 Q. Did they have a hand in  
6 creating this form?

7 A. Yes.

8 Q. So who else was involved in the  
9 creation of this form? You said you sat  
10 in maybe?

11 A. Yes. It's all the  
12 administrative leaders of the department:  
13 the unit chief, Dr. Dhar, Dr. Vivek, and  
14 the director of the nursing department.

15 Q. Have you ever from time to time  
16 had to reference this document for your  
17 own information?

18 MR. RADOMISLI: Objection to  
19 form.

20 A. You mean go back and read?

21 Q. Yes, that's another way of  
22 asking it.

23 A. I see it every now and then if  
24 we have administrative meetings, we have  
25 to see it once again so I more or less

1 L. ALDANA-BERNIER

2 will listen to what is being changed or  
3 being added.

4 MR. CALLAN: Keep your voice up,  
5 Doctor, louder.

6 Q. Doctor, I know that the last  
7 review was April of 2010. Was anything  
8 changed then?

9 A. I would not remember.

10 Q. It appears that the policy was  
11 reviewed every April from 1999 through  
12 2010. What does the review entail, do  
13 you know?

14 A. Going back to all of this if  
15 there is anything added that the  
16 Department of Health would like to add.

17 Q. What is on here, what is the  
18 information on here, how would you  
19 characterize that?

20 A. Well, it's giving us all the  
21 reasons about when we admit the patient.  
22 It's the 9.39.

23 Q. Do you know the vernacular,  
24 CPEP, do you know what a CPEP is?

25 A. Community --

1 L. ALDANA-BERNIER

2 Q. Community psyche emergency  
3 protocol?

4 A. Where are you?

5 Q. It's not on here.

6 Do you know that vernacular, do  
7 you know what that stands for, CPEP?

8 MR. RADOMISLI: Did you say what  
9 you thought it stood for on the  
10 record? I don't think you got it  
11 right.

12 Q. Do you know what CPEP stands  
13 for?

14 A. Referring to CPEP?

15 Q. What is that?

16 A. That is the holding a patient  
17 in that department instead of sending the  
18 patient to admission.

19 Q. Holding them in that --

20 A. It's a different department of  
21 ER wherein you can hold a patient before  
22 you could admit the patient to the  
23 inpatient.

24 Q. That's the psych ER, the  
25 medical ER, or both?

1 L. ALDANA-BERNIER

2 A. The psych ER.

3 Q. And that wasn't done with Mr.  
4 Schoolcraft, correct?

5 A. Because we did not have a CPEP  
6 then.

7 Q. What does that stand for?

8 A. Community psychiatry emergency  
9 -- I do not have the whole name, sorry.

10 Q. But Jamaica Hospital has one  
11 now?

12 A. It has one, yes.

13 Q. When looking at Exhibit 70, is  
14 it your understanding this sets out what  
15 is required under 9.39 of the mental  
16 health law to admit someone under the  
17 mental health law?

18 MR. CALLAN: Objection to form.

19 MR. LEE: Objection to the form.

20 A. I want you to rephrase that  
21 one.

22 Q. Sure.

23 What is the standard set out in  
24 this document, if you know?

25 MR. CALLAN: Do you want her to

1 L. ALDANA-BERNIER

2 read the document, a summary?

3 MR. SUCKLE: I want to know her  
4 understanding of it.

5 MR. CALLAN: I object. It's a  
6 three-page piece of paper. It speaks  
7 for itself.

8 Objection to the form of the  
9 question.

10 Q. Do you know what this is?

11 A. Yes, it's a New York Mental  
12 Hygiene Law, that's careful attention  
13 with preservation of their legal rights  
14 as well as their safety.

15 Q. Is this the policy of Jamaica  
16 Hospital?

17 A. To do a 9.39?

18 Q. Is this document a policy of  
19 Jamaica Hospital?

20 A. It's showing in here Jamaica  
21 Hospital Department of Psychiatry Manual.

22 Q. Is it a policy of Jamaica  
23 Hospital, a written policy?

24 A. A written policy, yes.

25 Q. Do you endeavor to follow the

1 L. ALDANA-BERNIER

2 policies of Jamaica Hospital, the written  
3 ones?

4 A. The written, yes.

5 Q. In dealing with Mr.  
6 Schoolcraft, did you endeavor to follow  
7 the policy set forth here as Exhibit 70?

8 MR. CALLAN: Well, this says it  
9 was revised 4/10.

10 MR. SUCKLE: I asked her if she  
11 knew what --

12 MR. CALLAN: Well, we don't  
13 know.

14 MR. SUCKLE: It doesn't say  
15 revised. It says reviewed. Please  
16 don't speak. I asked her about --

17 MR. CALLAN: Are you making a  
18 representation this was the policy  
19 that was in effect at the time that  
20 Mr. Schoolcraft were seen?

21 MR. SUCKLE: I'm asking if she  
22 followed this policy, endeavored to  
23 follow this policy, whether it was in  
24 effect or not she can tell me.

25 MR. LEE: Objection to form.



1 L. ALDANA-BERNIER

2 A. It's saying in here, "Patient  
3 alleged to have a mental illness for  
4 which immediate observation, care, and  
5 treatment in a hospital is appropriate  
6 and which is likely to result in serious  
7 harm to himself or others may be admitted  
8 under this provision for a period of 15  
9 days."

10 Q. The question is: Did you  
11 endeavor to follow this policy in your  
12 care and treatment of Mr. Schoolcraft?

13 A. At that point in 2009, I  
14 thought -- I believe that he may be a  
15 danger to others or to himself because of  
16 that point in time if you go back to the  
17 story where he was brought to the  
18 hospital because he was acting bizarre  
19 and agitated and he was paranoid. I  
20 think he was a danger to others or to  
21 himself.

22 Q. Is your answer, yes, you tried  
23 to --

24 A. That's what I'm saying, yes.

25 Q. Under this policy, under number

1 L. ALDANA-BERNIER

2 1 is "a substantial risk of physical harm  
3 to himself as manifested by threats of or  
4 attempts at suicide."

5 Did he manifest threats or  
6 attempts at suicide?

7 MR. SHAFFER: Objection.

8 MR. CALLAN: Objection.

9 Q. Did Mr. Schoolcraft manifest  
10 threats or attempts at suicide?

11 A. You have to finish.

12 Q. We are going to break it down.  
13 We are going to go one by one?

14 MR. CALLAN: Objection.

15 MR. SUCKLE: That's the  
16 question.

17 MR. CALLAN: Objection to the  
18 form of the question.

19 MR. SUCKLE: Noted. She can  
20 answer.

21 MR. CALLAN: The doctor said you  
22 left something out. You are reading  
23 incomplete sentences from a three-page  
24 document.

25 MR. SUCKLE: I'm asking

1 L. ALDANA-BERNIER

2 questions. In my horrific stumbling  
3 way, I'm asking a question.

4 Q. Doctor, did you admit Mr.  
5 Schoolcraft because he was a substantial  
6 risk of physical harm to himself as  
7 manifested by a threat or attempt at  
8 suicide?

9 A. Sir --

10 Q. Just yes or no.

11 A. Sir, you have to complete the  
12 statement.

13 Q. I don't have to do anything.  
14 You have to answer questions.

15 MR. SHAFFER: Objection.

16 A. "Or other conduct demonstrating  
17 he is a danger to himself."

18 Q. We're going to get there. I  
19 know that part. I'm asking you a  
20 question.

21 A. That's what I based --

22 Q. We are going to get to what you  
23 based your opinion on. I'm asking you:  
24 Did you base it on that he was a  
25 substantial risk of physical harm to

1 L. ALDANA-BERNIER

2 himself as manifested by a threat of or  
3 attempt at suicide?

4 MR. CALLAN: Objection, asked  
5 and answered.

6 MR. SUCKLE: Not answered yet.

7 Q. Yes or no?

8 MR. CALLAN: Objection, asked  
9 and answered.

10 Q. Can you answer, please?

11 A. A potential risk, yes.

12 Q. So you say he manifest by a  
13 threat or attempt at suicide; it that  
14 what you're saying?

15 A. A potential risk.

16 Q. Did he manifest by a threat of  
17 suicide?

18 A. It's the behavior that he came  
19 in with to the emergency room. I saw he  
20 was a potential risk that he might hurt  
21 himself or hurt others. That's a  
22 potential risk.

23 Q. So potential risk was the  
24 reason that you held him, correct?

25 A. That's the reason that I was

1 L. ALDANA-BERNIER

2 thinking that he needs admission.

3 Q. And the potential of that risk  
4 you've described to us already today?

5 A. I did, yes.

6 Q. And this potential of a risk,  
7 did the doctor who saw him within the  
8 48-hour period to confirm his admission  
9 also tell you that he was concerned about  
10 the potential risk?

11 MR. RADOMISLI: Objection.

12 MR. LEE: Objection to the form.

13 MR. CALLAN: I join in the  
14 objection.

15 Q. Did he tell you he was  
16 concerned about the potential risk that  
17 you've just described?

18 MR. LEE: There's been no  
19 testimony she ever talked to him.

20 MR. SUCKLE: She can say that if  
21 that's the answer.

22 A. If you read the notes, I wasn't  
23 there for him to tell me that. As I read  
24 his notes, I can see he was a potential  
25 risk.

1 L. ALDANA-BERNIER

2 Q. This potential risk that you're  
3 talking about, did he have this potential  
4 risk when you last saw him?

5 A. I'm not basing it only to one  
6 day. I'm basing it from the beginning  
7 that he came into the hospital.

8 Q. And this potential risk, is  
9 there any other risk besides that  
10 potential risk that you just described as  
11 the reason that you held him?

12 A. What risk are you thinking of?

13 Q. I'm not thinking of any.

14 MR. CALLAN: Do you want her to  
15 repeat herself again?

16 MR. SUCKLE: No, I want to make  
17 sure there are no other ones.

18 Q. Is that potential risk that you  
19 just described the only reason that you  
20 held him?

21 A. The same reason I think when I  
22 see a patient, it is a potential risk and  
23 danger to others, and I make the decision  
24 I have to admit the patient.

25 Q. And when you say "potential

1 L. ALDANA-BERNIER

2 risk," can you quantify that for me at  
3 all what you mean by potential?

4 A. The patient comes in barricaded  
5 himself, acting bizarre. He was brought  
6 in from his house. It was a police  
7 officer who may have access to weapons,  
8 easy for him to have access to weapons.  
9 He is paranoid. I would think that maybe  
10 it would be safe if the patient will be  
11 admitted.

12 Q. So your thought he might be  
13 safe if he was admitted?

14 A. If he was admitted.

15 Q. That's what you were talking  
16 about when you say potential risk,  
17 correct?

18 A. All of the above that I told  
19 you.

20 Q. Can you quantify what you mean  
21 by potential risk as far as the  
22 likelihood of risk? This word  
23 "potential" that you have been using, can  
24 you quantify that for me?

25 A. When you say "quantify," what

1 L. ALDANA-BERNIER

2 do you mean?

3 Q. Sure.

4 Well, you used the word  
5 "potential." I would like to know what  
6 you mean by potential.

7 A. If you think of the navy yard  
8 disaster, was he an officer or army man?  
9 He was so quite, no one ever found out  
10 what was going on with him. So what  
11 happened then?

12 Or if you look at all of those  
13 -- the Range Rover. Who are all of these  
14 people that caused that? They are all  
15 police officers.

16 So if I think then I have to  
17 make sure that when I see a patient in  
18 the ER, I have to think in the future  
19 that there will be no disaster, there  
20 will be no destruction, or no one will  
21 get harmed when they were discharged from  
22 the ER.

23 Q. I was asking about what you  
24 meant by potential.

25 A. That's the potential.



1 L. ALDANA-BERNIER

2 Q. So if there is any potential at  
3 all, you want to make sure that the  
4 patient is safe, correct?

5 A. Correct.

6 Q. And if there is any potential  
7 at all, you want to make sure the  
8 community is safe, correct?

9 A. That's correct.

10 Q. And if there is any potential  
11 at all, you were going to admit Mr.  
12 Schoolcraft, correct?

13 MR. LEE: Objection to form.

14 A. With all of those reasons, yes,  
15 I would have to admit him.

16 Q. When you admitted him to the  
17 emergency room, there were certain rules  
18 and regulations --

19 MR. SUCKLE: Withdrawn.

20 Q. When he was admitted to the  
21 psych floor, there were certain rules and  
22 regulations in the psych ward, correct,  
23 about clothes they wear, what hours  
24 visitors can come, correct?

25 A. Yes.

1 L. ALDANA-BERNIER

2 Q. It's not like they are free to  
3 have anybody come and visit any time they  
4 want, correct; is that true?

5 A. That's correct.

6 Q. I will show you what's been  
7 marked as Exhibit 71.

8 Now, do you know what that is?

9 A. [No response.]

10 Q. Do you know what that is?

11 A. It's the policy of visiting  
12 hours.

13 Q. Were those the policies in  
14 effect when Mr. Schoolcraft was on the  
15 psychiatric floor at Jamaica Hospital in  
16 2009?

17 A. Okay, this policy is for the  
18 inpatient unit.

19 Q. During the time that Mr.  
20 Schoolcraft was at Jamaica Hospital, was  
21 he in the inpatient unit?

22 A. I did not work in the inpatient  
23 unit.

24 Q. I understand.

25 Was he in the inpatient unit?

1 L. ALDANA-BERNIER

2 A. Yeah, he was in the inpatient  
3 unit.

4 Q. Were these documents created by  
5 Jamaica Hospital, the visiting hours, do  
6 you know about that?

7 A. It's in here [indicating].

8 Q. Were you sitting in on the  
9 committee that created that document too?

10 A. I don't remember that.

11 Q. Do you agree that Mr.  
12 Schoolcraft could have visitors from 2  
13 p.m. and 3 p.m. and 6:30 p.m. to 8 p.m.  
14 only?

15 MR. RADOMISLI: Objection.

16 MR. CALLAN: Objection.

17 Q. While he was on the floor, do  
18 you agree with that?

19 MR. CALLAN: You know, Counsel,  
20 she said she is not involved with the  
21 inpatient.

22 Maybe you can ask her about  
23 painting the hospital. Maybe she  
24 might know something about that.  
25 Maybe she looked at it from her car

1 L. ALDANA-BERNIER

2 when she drove by.

3 MR. SUCKLE: I'll ask her about  
4 it next.

5 MR. SHAFFER: I will be leaving  
6 if that is a question that's asked.

7 A. Can you ask the question again?

8 Q. What were the visiting hours on  
9 the floor?

10 A. Two to three, 6:30 to eight.

11 Q. So Mr. Schoolcraft if his  
12 father wanted to visit him at nine  
13 o'clock in the morning, would not be able  
14 to do that, correct?

15 MR. CALLAN: Objection.

16 MR. RADOMISLI: Objection.

17 MR. LEE: Objection to form.

18 A. I would not know what the  
19 policy at the inpatient unit would be.

20 MR. SUCKLE: Counsel wants me to  
21 ask about painting, but I'm not going  
22 to do that.

23 MR. CALLAN: That's a relief.

24 Q. Let's look at Exhibit 72.

25 MR. SMITH: Which is --

1 L. ALDANA-BERNIER

2 Q. Which is the restriction of  
3 visiting and communication and  
4 correspondence, do you know about that,  
5 what that document is?

6 A. This is also for the inpatient  
7 unit.

8 Q. So you don't know anything  
9 about it?

10 A. I can read it to you.

11 Q. Do you know anything about it?

12 A. No, it's for the inpatient  
13 unit.

14 Q. So you only know about the  
15 emergency room?

16 A. Emergency room.

17 MR. CALLAN: Aren't you doing  
18 Isakov tomorrow? Isn't he in the  
19 inpatient room?

20 Q. I'm showing you what's been  
21 marked Exhibit 74 today's date. Do you  
22 know what this is?

23 A. It's the rules and regulations  
24 the patients have to comply with.

25 Q. At Jamaica Hospital in the

1 L. ALDANA-BERNIER

2 psych unit?

3 A. Psych Unit 3, yes.

4 Q. What is Psych Unit 3?

5 A. That's -- it's a unit which  
6 patients are admitted; one is 2 and one  
7 is 3.

8 Q. What is the distinction, if  
9 any, in treatment?

10 A. None, it's the same.

11 Q. Was Mr. Schoolcraft admitted to  
12 Psych 3?

13 A. Yes.

14 Q. So these rules would apply to  
15 him?

16 A. Psych 3.

17 MR. RADOMISLI: Mr. Suckle, is  
18 this something we produced to you?

19 MR. SUCKLE: I believe so. I  
20 don't know.

21 MR. RADOMISLI: Do you know?

22 MR. SUCKLE: Off the top of my  
23 head, I don't remember but -- I don't  
24 remember.

25 MR. RADOMISLI: Would there be a

1 L. ALDANA-BERNIER

2 way for you to get it in a fashion  
3 other than if we produced it?

4 MR. SUCKLE: I didn't do  
5 discovery in this case so you've got  
6 the wrong guy.

7 MR. RADOMISLI: Do you know  
8 whether this was produced to you by  
9 us?

10 MR. SUCKLE: Off the top of my  
11 head, I would assume it was. In fact,  
12 I know it came out of, I hit print on  
13 your document response to discovery  
14 inspection and this came out. I can  
15 tell you that.

16 MR. RADOMISLI: Fair enough.  
17 Thank you.

18 MR. CALLAN: Or it could be  
19 another hospital in Queens, who knows.

20 Q. This document was created by  
21 Jamaica Hospital, correct?

22 MR. CALLAN: Objection.

23 A. Correct.

24 Q. She already said yes.

25 MR. CALLAN: Do you know if that

1 L. ALDANA-BERNIER

2 was created by Jamaica Hospital, do  
3 you have personal knowledge of that?

4 THE WITNESS: It says Unit 3  
5 so....

6 MR. CALLAN: I'm not asking you  
7 what it says.

8 Do you have personal knowledge  
9 as to whether that document was  
10 created by Jamaica Hospital?

11 If you do, you can say yes, if  
12 no, say no. Don't assume is all I'm  
13 saying to you.

14 Do you know?

15 MR. SUCKLE: Stop badgering your  
16 own witness.

17 THE WITNESS: I was just looking  
18 at the top of it.

19 Q. Do you recognize this document?

20 A. Which one?

21 Q. This one, have you seen it  
22 before?

23 A. I have to -- I don't think so  
24 because it's inpatient unit.

25 MR. SMITH: You don't think so?



1 L. ALDANA-BERNIER

2 THE WITNESS: It's in the  
3 inpatient unit. I work in the ER.

4 Q. You work in the ER; am I  
5 correct?

6 A. Yes.

7 Q. You have been doing this for  
8 how many years, how long have you been  
9 working in the ER?

10 A. Eighteen years.

11 Q. For 18 years people come into  
12 the psychiatric ER, right, you evaluate  
13 them, correct?

14 A. Yes.

15 Q. And you sign them in under  
16 Mental Hygiene Law, they go upstairs,  
17 correct?

18 A. Yes.

19 Q. And you never see them again;  
20 is that true?

21 MR. CALLAN: Objection.

22 Q. While they were at the  
23 hospital?

24 MR. CALLAN: Does that have to  
25 do with the piece of paper?

1 L. ALDANA-BERNIER

2 MR. SUCKLE: I'm asking  
3 questions about the paper because you  
4 didn't like the paper.

5 Q. Is that true? When they go  
6 upstairs on the psychiatric ward, you  
7 don't see them again, correct?

8 A. That depends if you follow the  
9 patient on the outside, then you see them  
10 again.

11 Q. When you say "follow the  
12 patient on the outside," do you follow  
13 patients on the outside?

14 A. If they refer them to me, yes.

15 Q. Who is they?

16 A. The inpatient Unit 3.

17 Q. So inpatient can refer a  
18 patient to you for private care?

19 A. Yes.

20 Q. Do you do your own private  
21 practice?

22 A. Yes.

23 Q. Do you have an office outside  
24 of Jamaica Hospital?

25 A. I do.

1 L. ALDANA-BERNIER

2 Q. In this private practice, you  
3 practice psychiatry I assume, correct?

4 A. What else would I practice?

5 Q. I don't know. I'm just making  
6 sure.

7 How many days a week do you  
8 work in that private practice?

9 A. One.

10 Q. How many days a week did you  
11 work at Jamaica Hospital in 2009?

12 A. Five.

13 Q. And you also had private  
14 practice back in 2009?

15 A. That's -- yes, one, one day.

16 Q. So just to be clear: You were  
17 working six days a week back in 2009,  
18 correct, five at Jamaica, one on your  
19 own?

20 A. I work with somebody.

21 Q. So you are working six days a  
22 week, five at Jamaica Hospital and one in  
23 private practice in 2009?

24 A. Five days a week after I come  
25 -- after five o'clock on Friday.

1 L. ALDANA-BERNIER

2 Q. So five o'clock on Fridays you  
3 see private patients in your own  
4 practice; is that what you're saying?

5 A. Yes.

6 Q. How many hours do you usually  
7 do that?

8 A. Four hours.

9 Q. Could you get referrals from  
10 time to time from patients up on the  
11 psych 3 unit?

12 A. Yes.

13 Q. Who refers them to you: the  
14 physicians up there, the nurses, anybody  
15 else?

16 A. Social worker.

17 Q. Social workers?

18 A. Yes.

19 MR. CALLAN: Counsel, does this  
20 have anything remotely to do with Mr.  
21 Schoolcraft?

22 MR. SUCKLE: I don't know yet.

23 MR. CALLAN: Has he told you he  
24 was seeing Dr. Aldana-Bernier in her  
25 office?

1 L. ALDANA-BERNIER

2 MR. SUCKLE: Are you saying her  
3 resumé is not part of my questions?

4 MR. CALLAN: I'm just asking.  
5 You have been going for hours here and  
6 now we have gone down this road to  
7 nowhere. I would kind of like to get  
8 it back.

9 This all has to do with you  
10 handing her a piece of paper if they  
11 can smoke in the inpatient unit or not  
12 which I will be willing to stipulate  
13 by the way that no smoking is allowed.

14 I think it is Rule No. 1  
15 assuming that's Psych Unit 3 is  
16 Jamaica Hospital.

17 MR. SUCKLE: Are you enjoying  
18 extending our stay here?

19 Q. So did you see Mr. Schoolcraft  
20 in your private practice?

21 A. No.

22 Q. Did you see police officers in  
23 your private practice?

24 A. No.

25 Q. Did a Captain Lauterborn tell

1 L. ALDANA-BERNIER

2 you that from his observation of Mr.  
3 Schoolcraft as he observed Mr.  
4 Schoolcraft on October 31st, 2009, that  
5 Mr. Schoolcraft was fit for duty?

6 MR. SHAFFER: Objection.

7 Q. Did he tell you that?

8 A. I did not meet him.

9 Q. So am I correct that you got  
10 the history of Mr. Schoolcraft  
11 barricading him [sic] from some police  
12 officers, but you didn't get the  
13 histories from other police officers like  
14 Captain Lauterborn; am I correct?

15 MR. CALLAN: Objection to form.

16 MR. LEE: Objection to form.

17 MR. RADOMISLI: Objection to  
18 form.

19 A. I don't know the officer. I  
20 haven't met him.

21 Q. Well, it was Mr. Schoolcraft's  
22 captain. Are you aware that Captain  
23 Lauterborn was his captain?

24 MR. SHAFFER: Objection.

25 A. No.

1 L. ALDANA-BERNIER

2 Q. So you were not aware when you  
3 signed the form on November 3rd, to admit  
4 Mr. Schoolcraft to the hospital that his  
5 captain said that he was fit for duty?

6 MR. CALLAN: Objection.

7 MR. SHAFFER: Objection.

8 MR. RADOMISLI: Objection.

9 Q. You did not know that?

10 MR. SHAFFER: Objection.

11 A. No, I didn't know that.

12 Q. Would you like to have known  
13 that information, would it have helped  
14 you in your assessment of Mr.  
15 Schoolcraft?

16 MR. SHAFFER: Objection.

17 MR. CALLAN: I join in the  
18 objection.

19 Q. Would you have liked to know,  
20 would that have helped you in your  
21 assessment of Mr. Schoolcraft?

22 MR. CALLAN: If it's true.

23 A. I didn't even know when he came  
24 to the hospital, I didn't see any  
25 officer. I don't remember if I seen an

1 L. ALDANA-BERNIER  
2 officer at the time when I saw Mr.  
3 Schoolcraft.

4 MR. CALLAN: Doctor, he didn't  
5 say he came to the hospital. I know  
6 it's getting late in the day. He is  
7 asking you to make an assumption about  
8 something. He asking you a question.  
9 He didn't say this person came to the  
10 hospital so just listen carefully to  
11 the question.

12 Go ahead, Counsel.

13 MR. SUCKLE: Read that back.

14 [The requested portion of the  
15 record was read.]

16 Q. My question is: Would you have  
17 liked to know, would it have helped you  
18 in your assessment of Mr. Schoolcraft  
19 that his captain said he was fit for duty  
20 on October 31st, 2009?

21 MR. KRETZ: Objection.

22 MR. CALLAN: On October 31st?

23 MR. SUCKLE: Yes.

24 MR. CALLAN: Objection.

25 A. Yes, I would.



1 L. ALDANA-BERNIER

2 Q. Would that have changed your  
3 opinion regarding whether or not Mr.  
4 Schoolcraft needed to be admitted to the  
5 hospital if you had known that Captain  
6 Lauterborn had said that Mr. Schoolcraft  
7 was fit for duty on October 31st, 2009?

8 MR. RADOMISLI: Can you just  
9 define when he said that?

10 MR. SUCKLE: On that day,  
11 October 31st, 2009.

12 MR. RADOMISLI: Before Mr.  
13 Schoolcraft left?

14 MR. SUCKLE: I just want to ask  
15 the question. You can narrow it down  
16 anyway you want when your turn comes.

17 Let's have a question and an  
18 answer.

19 MR. RADOMISLI: I would like a  
20 time frame.

21 MR. SUCKLE: I know what you  
22 want. I asked a question.

23 MR. RADOMISLI: Objection to  
24 form.

25 MR. SHAFFER: I join in the

1 L. ALDANA-BERNIER

2 objection.

3 Q. Would you have changed your  
4 opinion had you known on October 31st,  
5 2009, at 21:30 hours, Captain Lauterborn  
6 said that Mr. Schoolcraft was fit for  
7 duty, would that have changed your  
8 opinion?

9 MR. KRETZ: Objection.

10 MR. CALLAN: Objection.

11 MR. SHAFFER: Objection.

12 Q. Would you have admitted him is  
13 the question?

14 A. Yes, I would have admitted him.

15 Q. How would it have changed your  
16 opinion. You said it would change your  
17 opinion?

18 MR. CALLAN: You asked if she  
19 would have liked to have known.

20 MR. SUCKLE: I did ask her.

21 Q. Would it change your opinion if  
22 you knew that Captain Lauterborn on  
23 October 31st, 2009, at 21:30 hours,  
24 deemed Mr. Schoolcraft fit for duty?

25 A. It would not change my opinion.

1 L. ALDANA-BERNIER

2 I would talk to maybe the captain, and I  
3 will tell him what is going on, and I  
4 will make a decision together again with  
5 the chairman if he should be admitted or  
6 discharged.

7 Q. And you would talk to the  
8 captain because you want to verify that  
9 information, correct?

10 MR. KRETZ: Objection.

11 MR. CALLAN: Same objection.

12 Q. Is that why you would have  
13 talked to the captain?

14 MR. CALLAN: Verify what  
15 information, what information,  
16 Counsel?

17 MR. SUCKLE: She said she would  
18 talk to the captain.

19 Q. Why would you have talked to  
20 the captain?

21 A. To verify that he said he was  
22 fit for duty.

23 Q. Did you speak to any officers  
24 to verify that he had barricaded himself  
25 in his house?

1 L. ALDANA-BERNIER

2 MR. SHAFFER: Objection.

3 A. I get it from the information  
4 in the report.

5 Q. Did you speak to any police  
6 officer to verify he was acting bizarre?

7 MR. SHAFFER: Objection.

8 MR. CALLAN: Asked and answered.

9 Q. Did you speak to any officers?

10 A. It's been reported and written  
11 down in the document.

12 MR. KRETZ: Read that back.

13 [The requested portion of the  
14 record was read.]

15 Q. Seroquel, do you know what that  
16 is?

17 A. Yes.

18 Q. What is it?

19 A. A second generation  
20 antipsychotic.

21 Q. Is that also used for sleep  
22 disorders?

23 A. Sleep, depression, bipolar,  
24 used for psychosis.

25 MR. SMITH: We are going to take

1 L. ALDANA-BERNIER

2 a short break to see what we have  
3 left.

4 It's 5:24. We are going off the  
5 record.

6 MR. CALLAN: All right.

7 [Discussion held off the  
8 record.]

9 [Whereupon, at 5:24 p.m., a  
10 recess was taken.]

11 [Whereupon, at 5:38 p.m., the  
12 testimony continued.]

13 MR. SMITH: Back on the record.  
14 It is 5:38 p.m.

15 MR. RADOMISLI: Just before you  
16 start asking questions, I sent an  
17 email to my associate at the office  
18 asking him to do a search in our  
19 system to determine if we ever  
20 provided with you document Psych 3  
21 Unit Rules, according to his search,  
22 there is nothing on our system  
23 indicating we ever did.

24 I ask you send us by within a  
25 week an explanation how you obtained

1 L. ALDANA-BERNIER

2 this document. I'm not saying we  
3 didn't give it to you, all I'm saying  
4 is according to my associate based on  
5 his search, there is no indication we  
6 did.

7 MR. SUCKLE: I will double-check  
8 my records, but I'm fairly confident  
9 that it came from you.

10 MR. CALLAN: It didn't come from  
11 me. I can tell you that.

12 MR. SUCKLE: Maybe the house  
13 painter gave it.

14 Q. Doctor, I know it's late. We  
15 are getting there.

16 Doctor, in your position as  
17 employee of the hospital, do you get a  
18 performance evaluation, do you get  
19 evaluated in your performance?

20 A. Yes.

21 Q. Is that something done  
22 annually, some other way?

23 A. Annually.

24 Q. Are they written evaluations?

25 A. Are they written, yes.

1 L. ALDANA-BERNIER

2 Q. And in their evaluations,  
3 without discussing at this point what the  
4 evaluations were, can you tell me what  
5 some of items are that are considered in  
6 your evaluation?

7 A. I don't have a copy so it's  
8 hard for me to say. We talk about  
9 performance. We talk about ability to  
10 relate with other staff. We talk about  
11 clinical judgment. We talk about if we  
12 have this sense of cooperativeness with  
13 the department. We also talk about our  
14 knowledge of medicine or psychiatry.  
15 That's all I can remember.

16 Q. In your evaluation has any of  
17 your evaluations criticized your clinical  
18 judgment?

19 MR. RADOMISLI: Objection based  
20 on the --

21 MR. CALLAN: Yeah, objection.

22 MR. RADOMISLI: -- and based on  
23 Education Law 6527.

24 MR. CALLAN: I join in the  
25 objection, and you're directed not to

1 L. ALDANA-BERNIER

2 answer that question.

3 Q. When you talk about  
4 performance, is there any relationship  
5 between performance and the number of  
6 patients seen in your evaluation?

7 MR. CALLAN: Objection to the  
8 question.

9 MR. SUCKLE: Just generally not  
10 only her.

11 Q. Generally, is part of your  
12 performance evaluation based on the  
13 number of patients seen?

14 MR. RADOMISLI: Objection based  
15 on privilege, but I can't direct her  
16 not to answer.

17 MR. SUCKLE: I don't think  
18 that's privileged. She just gave me  
19 generally categories of evaluations.

20 MR. RADOMISLI: You're asking  
21 her?

22 MR. SUCKLE: I'm asking  
23 generally.

24 MR. LEE: Objection.

25 Q. Generally, in the category of



1 L. ALDANA-BERNIER

2 performance, does that include number of  
3 patients seen?

4 A. No.

5 Q. Do you know how many patients  
6 you saw last year at Jamaica Hospital?

7 A. I would not remember that.

8 Q. Is there a way that you can  
9 ascertain that kind of information?

10 A. I have to go to the financial  
11 department and see how many patients I  
12 have seen. I don't know.

13 Q. That would be the same for  
14 patients that you saw in 2009?

15 MR. CALLAN: You mean did she  
16 see the exact number of patients?

17 Q. In order to find out how many  
18 you saw, you would have to go to the  
19 financial department?

20 A. Financial department because  
21 they have to do the billing. I don't  
22 bill.

23 Q. So in order to find out how  
24 many patients you saw if you wanted, you  
25 would have to go to the billing or

1 L. ALDANA-BERNIER  
2 financial department, correct?

3 MR. CALLAN: Do you know if they  
4 can isolate it by doctor name or are  
5 you assuming?

6 THE WITNESS: I do not know how.

7 MR. CALLAN: Just tell him that.

8 MR. SMITH: Let her speak.  
9 Don't interrupt. Let her answer the  
10 question for God's sake.

11 MR. CALLAN: Do you know for a  
12 fact if they have the software or  
13 computer program to isolate it by  
14 doctor per patient, do you know that?

15 THE WITNESS: No, I don't.

16 Q. Doctor, does Jamaica Hospital  
17 have a billing department?

18 A. They do.

19 Q. When you see a patient, are you  
20 required to fill out any paperwork so  
21 that the patient's insurance company will  
22 be billed if there is an insurance  
23 company?

24 A. I'm not the one that do the  
25 billing.

1 L. ALDANA-BERNIER

2 Q. Do you fill out any forms or  
3 documents that go to billing so they can  
4 bill the patient for your services?

5 A. Yes, I fill out a form.

6 Q. What is the nature of that  
7 form, what is it?

8 A. It's a form that I sign that I  
9 saw the patient.

10 Q. Do patients who come in with  
11 private insurance, do they get admitted,  
12 do you need approval from time to time  
13 from private insurance before they get  
14 admitted; just generally we're talking  
15 about?

16 A. Let me see.

17 Q. I'm talking generally.

18 A. Yes.

19 Q. Not Mr. Schoolcraft.

20 A. Yes.

21 Q. What about for Medicare, do  
22 they need approval before a patient is  
23 admitted?

24 A. That depends if it's an HMO.

25 Q. So some HMOs require approval

1 L. ALDANA-BERNIER

2 and some aren't HMOs.

3 And does the federal government  
4 require prior approval on their Medicare?

5 A. If they are not HMOs, you don't  
6 to ask for authorization.

7 Q. How about Medicaid, is prior  
8 approval required before admission?

9 A. No.

10 Q. Just as a housekeeping thing:  
11 Are you paid for your overtime hours?

12 A. No.

13 Q. You have actually in front of  
14 you, you know at some point IAB, internal  
15 affairs from the New York City Police  
16 Department did come to the hospital based  
17 on the records in front of you, correct?

18 MR. CALLAN: Is that a question,  
19 does she know that?

20 MR. SUCKLE: Yes.

21 Q. Based on the record in front of  
22 you?

23 A. Yes, I know there is a note.

24 Q. What is the date of that note?

25 A. That's 11/2/2009, five o'clock

1 L. ALDANA-BERNIER

2 in the afternoon.

3 Q. So that note was in the chart  
4 before you signed your November 3rd,  
5 mental hygiene admission form, correct?

6 A. That's correct.

7 Q. So you know that internal  
8 affairs had come to the hospital before  
9 you decided to admit Mr. Schoolcraft to  
10 the hospital?

11 MR. CALLAN: Objection. She  
12 testified earlier she made the  
13 decision to admit him on the 2nd not  
14 on the 3rd. She filled out the form  
15 on the 3rd. You're mischaracterizing  
16 testimony.

17 Q. Before you filled out the form  
18 to admit Mr. Schoolcraft under the Mental  
19 Hygiene Law, you knew that IAB had come  
20 to the hospital, correct?

21 MR. SHAFFER: Objection.

22 A. The notes are here from 11/2.

23 Q. So the answer is yes, you knew  
24 that IAB had come to the hospital before  
25 you signed the admission forms on 11/3,

1 L. ALDANA-BERNIER

2 correct?

3 A. I must have read the notes.

4 MR. SMITH: What was the answer?

5 THE WITNESS: I must have read  
6 the note.

7 Q. Did you speak to the officer  
8 from IAB and ask them whether or not Mr.  
9 Schoolcraft had told them the story about  
10 the problem with his supervisor that Mr.  
11 Schoolcraft told to you?

12 MR. SHAFFER: Objection.

13 A. It was at five o'clock. I was  
14 not there. It was at 9:30. I'm not  
15 there anymore [indicating].

16 Q. In fact one of the officers  
17 from IAB stapled -- gave his card and it  
18 was taped to the chart, correct?

19 MR. CALLAN: She said she wasn't  
20 there when they were there.

21 Q. The chart you have in front of  
22 you, correct?

23 A. Yes.

24 Q. Yes. And when you went to sign  
25 your admission under the Mental Hygiene

1 L. ALDANA-BERNIER

2 Law on November 3rd, that card was in the  
3 chart, correct?

4 MR. CALLAN: How do we know when  
5 the card was stapled in?

6 MR. SUCKLE: Let her answer. If  
7 she doesn't know, she'll tell me.

8 MR. CALLAN: You're making these  
9 things up in your question.

10 MR. SUCKLE: I'm making up  
11 nothing. I'm --

12 MR. CALLAN: You are. You said  
13 the IAB officer stapled the card into  
14 the card.

15 MR. SUCKLE: I didn't say that.

16 MR. CALLAN: Who stapled that  
17 in?

18 MR. SUCKLE: Nobody, it's taped.

19 Q. Can we have an answer to the  
20 question, please?

21 A. I don't remember. I do not  
22 remember seeing this card.

23 Q. If that card was in the chart,  
24 would you have called that officer from  
25 internal affairs to verify Mr.

1 L. ALDANA-BERNIER

2 Schoolcraft's story?

3 MR. CALLAN: Objection.

4 MR. SHAFFER: Objection.

5 MR. SMITH: What was the answer?

6 THE REPORTER: I didn't get an  
7 answer yet.

8 Q. What's your answer.

9 A. I wouldn't know because I don't  
10 know if I saw the card or not.

11 Q. Had you seen the card before  
12 you signed the mental hygiene admission  
13 on the 3rd, would you have called  
14 internal affairs?

15 A. I did not see these cards  
16 before so I don't know if I would have  
17 called internal affairs.

18 Q. So now you are saying you know  
19 you did not see the cards?

20 A. I do not know if I saw these  
21 cards. I don't remember seeing them.

22 Q. And you don't remember if you  
23 would have called internal affairs?

24 A. I didn't see the card.

25 Q. You know you did not see the



1 L. ALDANA-BERNIER

2 cards?

3 A. I do not know. I do not  
4 remember. It was that 2009.

5 Q. So the answer is, am I correct,  
6 you don't know if you saw the cards and  
7 you don't know what you would have done  
8 if you did see the cards, am I correct,  
9 is that the answer?

10 MR. CALLAN: Objection.

11 Q. You can answer.

12 A. I do not know if I would have  
13 called them.

14 Q. Looking at the note of November  
15 2nd, 2009, at 9:30, do you see that note?

16 A. P.m.?

17 Q. Yes.

18 Do you see that note?

19 A. Yes.

20 Q. And that is before your  
21 November 3rd, 1:20 note where you signed  
22 the form, the mental hygiene admission,  
23 correct?

24 A. Yes.

25 Q. And did you read the chart

1 L. ALDANA-BERNIER

2 where it says, "Patient has been seen and  
3 interviewed by Detective Steven P. Wacter  
4 [phonetic] and Sergeant Scott from  
5 Internal Affairs Bureau"?

6 A. Yes.

7 Q. Would you want to know what  
8 internal affairs had to see about Mr.  
9 Schoolcraft in coming to your opinion  
10 regarding whether or not he needed to be  
11 admitted to the hospital?

12 MR. SHAFFER: Objection.

13 A. I was wondering why the  
14 attending put this note and did not write  
15 any note about what interaction happened  
16 with internal affairs.

17 Q. When you say you were wondering  
18 about it --

19 A. There's nothing.

20 Q. When were you wondering about  
21 it?

22 A. Now.

23 Q. Why were you wondering about  
24 it?

25 A. Should have written a note.

1 L. ALDANA-BERNIER

2 Q. When you say "should have  
3 written a note," what should he have  
4 written about?

5 A. His interaction with internal  
6 affairs.

7 Q. Would that have been helpful to  
8 you in your care and treatment with Mr.  
9 Schoolcraft?

10 A. In deciding to admit him or  
11 not?

12 Q. Yes.

13 A. I already made my decision  
14 before that. On 11/1 I made the decision  
15 of admission.

16 Q. Was your decision irreversible  
17 once you made it?

18 A. I think that he would benefit  
19 from inpatient admission.

20 Q. When you say "he would  
21 benefit," what do you mean?

22 A. I thought at the time in 2009  
23 that he would be a danger to himself or  
24 others.

25 Q. The question was: Would the

1 L. ALDANA-BERNIER

2 notes that you think would have been  
3 helpful in coming to your decision as to  
4 whether or not Mr. Schoolcraft needed to  
5 be admitted?

6 MR. RADOMISLI: Objection to  
7 form.

8 MR. CALLAN: How would she know?

9 MR. SUCKLE: She was the one  
10 that said something should have been  
11 there.

12 MR. CALLAN: You are the one  
13 talking about cards stapled into a  
14 chart.

15 MR. SUCKLE: The record is what  
16 the record is. You are just playing  
17 games now.

18 MR. CALLAN: It's nonsense.

19 MR. SUCKLE: It's nonsense?

20 MR. CALLAN: Right.

21 MR. SUCKLE: A doctor has a note  
22 in front of her and she signs a day  
23 later, you think it's nonsense.

24 MR. CALLAN: It is.

25 MR. SUCKLE: Let's go.

1 L. ALDANA-BERNIER

2 MR. CALLAN: She's got one note  
3 in the chart, it's only taken us six  
4 hours to question her so....

5 MR. SUCKLE: Maybe we should  
6 have taken six hours to evaluate the  
7 patient.

8 Q. The notes you said should have  
9 been there, would that have been helpful  
10 to you in your decision to admit Mr.  
11 Schoolcraft?

12 MR. SHAFFER: Objection to form.

13 MR. CALLAN: Objection to form.

14 MR. SUCKLE: It hasn't been  
15 answered.

16 MR. RADOMISLI: It has actually.

17 MR. CALLAN: Asked and answered,  
18 Counsel.

19 There is nothing in the note  
20 except that IAB was there.

21 MR. SUCKLE: The note she said  
22 should have been there.

23 MR. CALLAN: She is supposed to  
24 make up a note now and answer a  
25 hypothetical?

1 L. ALDANA-BERNIER

2 MR. SUCKLE: She said a note  
3 should be there. I'm asking about the  
4 note that should have been there.

5 A. Not my note.

6 Q. I understand.

7 The note that should have been  
8 there, would they have mattered in your  
9 decision to admit Mr. Schoolcraft?

10 MR. SHAFFER: Objection to form.

11 MR. RADOMISLI: Objection to  
12 form, asked and answered.

13 MR. SUCKLE: I didn't get an  
14 answer. I've asked it.

15 MR. SHAFFER: It's impossible to  
16 answer the question. The information  
17 doesn't exist. It's impossible to  
18 answer.

19 Let's stop playing games and  
20 move this along. You cannot answer a  
21 question about something that does not  
22 exist.

23 Q. Please answer the question?

24 MR. CALLAN: Can you answer the  
25 question, Doctor?

1 L. ALDANA-BERNIER

2 A. I already made my decision. I  
3 cannot answer the question.

4 Q. Once your made your decision?

5 A. The patient needed admission.  
6 I felt that at that point on 11/1 that  
7 the patient needed inpatient  
8 stabilization.

9 Q. So just so we are clear here:  
10 No information from IAB would have  
11 changed your mind, correct, from internal  
12 affairs?

13 MR. KRETZ: Objection.

14 MR. CALLAN: Same objection.

15 A. Then I would have to make the  
16 chairman make the decision.

17 Q. So if IAB had information, you  
18 would want the chairman to make the  
19 decision?

20 MR. CALLAN: Objection. This is  
21 ridiculous.

22 MR. SMITH: Would you stop.

23 Would you please stop. I'm sick and  
24 tired of you interrupting this  
25 examination. You've been doing this

1 L. ALDANA-BERNIER

2 all day.

3 MR. CALLAN: Are you involved in  
4 this?

5 MR. SMITH: Yes, heavily and  
6 you're going to become more involved  
7 in this with this kind of  
8 irresponsible behavior.

9 MR. CALLAN: There is one  
10 attorney designated to represent the  
11 Plaintiff. It's not you today. You  
12 are just running the home movie  
13 camera.

14 MR. SMITH: Would you please  
15 stop interfering?

16 MR. SUCKLE: Excuse me. No  
17 matter how much you pontificate, we  
18 are not going home until we are done.

19 I'm going to keep asking until I  
20 get an answer. I'm going to keep  
21 asking.

22 MR. CALLAN: Try to ask a  
23 relevant question.

24 MR. SUCKLE: I haven't been able  
25 to all day, that's why we're here.



1 L. ALDANA-BERNIER

2 I'm trying.

3 MR. CALLAN: Work harder at it.

4 MR. SUCKLE: Maybe you'll teach  
5 me one day.

6 A. What do the think internal  
7 affairs would tell me?

8 MR. CALLAN: Doctor, you have to  
9 wait for the question.

10 Q. There was nothing internal  
11 affairs could have told you to change  
12 your mind, you already made your decision  
13 and whatever internal affairs had to say,  
14 you were not going to change your mind,  
15 correct?

16 A. Is internal affairs reliable?

17 Q. That's a good questions. Can  
18 you answer my question?

19 A. So I have to determine how  
20 reliable internal affairs is.

21 Q. How do you determine whether or  
22 not internal affairs is reliable?

23 A. Because I have to assess them  
24 too.

25 Q. In assessing them, how would

1 L. ALDANA-BERNIER

2 you do that?

3 A. Collaborate what I have seen  
4 and what they tell me.

5 Q. So you would need to hear what  
6 internal affairs has to say and evaluate  
7 whether or not you can believe them or  
8 not, correct?

9 A. Yes.

10 Q. Did you evaluate the police  
11 officer who reported that Mr. Schoolcraft  
12 had barricaded himself in his house, did  
13 you evaluate that person?

14 MR. SHAFFER: Objection.

15 A. He wasn't there. I didn't see  
16 him.

17 Q. So but you accepted his  
18 information as part of the basis of your  
19 diagnosis, correct?

20 A. And the documentation.

21 Q. Documentation somebody else  
22 wrote in a chart, correct?

23 A. That I saw Mr. Schoolcraft and  
24 I agreed to whatever the documentation of  
25 the resident was.

1 L. ALDANA-BERNIER

2 Q. When you saw Mr. Schoolcraft,  
3 you agreed he had barricaded himself in  
4 his house?

5 A. That is the information given.

6 Q. Written in the chart?

7 A. Information given in the chart.

8 Q. By some police officer or  
9 sergeant from the police department,  
10 correct?

11 A. Hold on. Also have the  
12 documentation from the EMS.

13 Q. Did you speak to EMS?

14 A. Documentation is here.

15 Q. Documentation meaning a note?

16 A. Yes.

17 Q. So EMS writes a note and you  
18 accept what they say because it's written  
19 in the chart, correct?

20 A. They were there. They went to  
21 pick up the patient.

22 Q. But you are not sure if you  
23 would trust internal affairs; am I  
24 correct?

25 A. That's a big question.

1 L. ALDANA-BERNIER

2 Q. Do you have the duty as a  
3 physician in accordance with good and  
4 accepted medical practice to conduct your  
5 own evaluation of a patient?

6 A. I do.

7 Q. Do you as a physician have in  
8 accordance with good and accepted medical  
9 practice have to do a complete evaluation  
10 of your patients?

11 A. I agree with the evaluation of  
12 the resident. I saw the patient. I  
13 agree whatever evaluation of resident was  
14 and that's it. I have written in my  
15 notes --

16 Q. I understand.

17 My question is not quite that.

18 Do you have a duty, does good  
19 and accepted medical practice require you  
20 to do a complete evaluation of your  
21 patients; that's the question?

22 A. I'm in agreement with the  
23 resident.

24 Q. Yes or no, do you have a duty  
25 within the bounds of good and accepted

1 L. ALDANA-BERNIER  
2 medical practice to do a complete  
3 evaluation of your patient?

4 MR. CALLAN: Objection to form.

5 MR. LEE: Objection.

6 Q. Does good and accepted medical  
7 practice require you to do a complete  
8 evaluation of your patient?

9 A. I did evaluation. I'm in  
10 agreement with the resident.

11 MR. CALLAN: Objection.

12 Q. You can't answer that question?

13 A. I consider that in agreement  
14 with my resident.

15 Q. I'm not talking about conduct  
16 here. I'm talking about a standard of  
17 practice. The standard of practice is  
18 what we are talking about now.

19 The question is: Does good and  
20 accepted medical practice require you to  
21 do a complete evaluation; that's the  
22 question?

23 MR. KRETZ: Objection.

24 A. I mention to you I did an  
25 evaluation and I agree with whatever

1 L. ALDANA-BERNIER  
2 evaluation of the resident.

3 Q. I understand what you think you  
4 did in Mr. Schoolcraft's situation.

5 I'm asking as a standard as a  
6 physician what the standards are.

7 My question is: Does good and  
8 accepted medical practice require you to  
9 do a complete evaluation of all of your  
10 patients?

11 A. Okay. If you are saying in  
12 general if we agree with the evaluation  
13 of the residents, we usually say I agree  
14 with the above evaluation of the patient.

15 Yes, we evaluate the patient.  
16 If we agree with the assessment whatever  
17 the residents say, that's what we  
18 document.

19 Q. Do you not understand my  
20 question?

21 A. I understand your question.

22 Q. But you are just refusing to  
23 answer?

24 MR. CALLAN: Next question.

25 Move on.

1 L. ALDANA-BERNIER

2 Q. Doctor, does good and accepted  
3 medical practice require you to do an  
4 independent evaluation of your patient?

5 MR. CALLAN: We have been down  
6 that road, Counsel. She did an  
7 independent. She read --

8 MR. SUCKLE: I'm asking about  
9 standard in the field. Maybe I  
10 learned it, somewhere I must have  
11 stumbled in somewhere about the  
12 standard so I'm going to ask. I might  
13 be right.

14 Q. Doctor, does good and accepted  
15 medical practice require you to do an  
16 independent evaluation of all of your  
17 patients?

18 A. I already answered you. I said  
19 I assessed the patient. And if the  
20 resident assessed also the patient, I  
21 will say that I agree with the assessment  
22 of the patient.

23 Q. Do you know what good and  
24 accepted medical practice means?

25 A. I said I did assess the

1 L. ALDANA-BERNIER

2 patient.

3 Q. Do you know what medical  
4 standards are, standards of practice, do  
5 you understand that?

6 A. But you --

7 Q. I'm talking about general  
8 standards of practice. Do you  
9 understand?

10 A. Yes, I'm saying --

11 Q. I'm not talking about what you  
12 did with Mr. Schoolcraft.

13 A. I'm not referring only to Mr.  
14 Schoolcraft.

15 Q. The question is: Do you have,  
16 a simple yes or no, does good and  
17 accepted medical practice require you to  
18 do your own independent evaluation of an  
19 a patient?

20 MR. CALLAN: Objection to the  
21 form.

22 Q. If it's no you can tell me no.

23 MR. CALLAN: What do you mean,  
24 your own independent evaluation as  
25 opposed to speaking to a resident, as



1 L. ALDANA-BERNIER  
2 opposed to calling people?

3 MR. SUCKLE: Yes.

4 MR. CALLAN: Then ask it that  
5 way.

6 MR. SUCKLE: It's pretty clear.

7 MR. CALLAN: They way you're  
8 asking it is totally unclear.

9 MR. SUCKLE: It's one of those  
10 things I have to learn from you again.  
11 Thanks for teaching me.

12 Q. Can you please answer my  
13 question, Doctor? We are going to be  
14 here all night if you don't answer these  
15 few questions.

16 MR. CALLAN: I can assure we are  
17 not going to be here all night. We're  
18 getting very close to you being  
19 abusive.

20 Q. I'm entitled to be here. We  
21 will bring you back to answer this last  
22 few series of questions which go to  
23 standard of care.

24 MR. CALLAN: Sure you will.

25 MR. SUCKLE: I absolutely will

1 L. ALDANA-BERNIER  
2 bring her back if she can't answer  
3 standard of care questions. I will.  
4 You might want to ask her to answer  
5 the questions. I will bring her back  
6 if she doesn't answer standard of care  
7 questions.

8 MR. RADOMISLI: Off the record.

9 MR. SMITH: Off the record at  
10 6:05 p.m.

11 [Discussion held off the  
12 record.]

13 [Whereupon, at 6:05 p.m., a  
14 recess was taken.]

15 [Whereupon, at 6:06 p.m., the  
16 testimony continued.]

17 [Discussion held off the  
18 record.]

19 MR. SMITH: Back on the record  
20 at 6:06.

21 Q. Doctor, I'm not talking about  
22 what you documented or didn't document.  
23 I'm just talking about standard of care  
24 as a physician.

25 The question is: Does good and

1 L. ALDANA-BERNIER  
2 accepted medical practice require you to  
3 do your own independent evaluation  
4 regardless of how you document that  
5 evaluation?

6 MR. CALLAN: Objection to the  
7 form of the question.

8 You can answer.

9 A. When a resident sees the  
10 patient, after the resident sees the  
11 patient, I do go see the patient. If I  
12 can agree with the documentation, then I  
13 write I agree with the documentation.

14 Q. I understand your procedure.  
15 Thank for telling me your procedure.

16 Does good and accepted medical  
17 practice require you, forget what you do,  
18 does it require you to do your own  
19 independent evaluation? That's a simple,  
20 straightforward question, not about what  
21 other people do, about what you do.

22 A. I have to see every patient,  
23 yes.

24 MR. SMITH: What was the answer.

25 [The requested portion of the

1 L. ALDANA-BERNIER

2 record was read.]

3 Q. And make your own independent  
4 evaluation, correct?

5 A. Yes.

6 MR. SHAFFER: Is that a yes?

7 MR. CALLAN: It's a yes.

8 Q. Doctor, have you ever been  
9 involved in any other lawsuits besides  
10 this one?

11 A. Yes.

12 Q. The answer was yes?

13 A. Yes.

14 Q. When you say yes, how many?

15 A. Two that I know of.

16 Q. When you say that you know of,  
17 why do you answer that way?

18 A. That's what I know.

19 Q. Do you keep open there is a  
20 possibility that there are lawsuits that  
21 you don't know about?

22 A. That's what I know. You are  
23 asking me.

24 Q. Do you know the names of those  
25 people that are suing you?